

**ENTERED**

November 30, 2016

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ALUFASE USA LLC,

§

Plaintiff,

§

v.

§

CIVIL ACTION NO. H-16-77

VICTOR B. PALMA, et al.,

§

Defendant.

§

**MEMORANDUM AND RECOMMENDATION**

Pending before the court<sup>1</sup> is Plaintiff's Motion for Entry of Default (Doc. 15). The court has considered the motion, relevant filings, and the applicable law. For the reasons set forth below, the court **RECOMMENDS** that Plaintiff's motion be **GRANTED**.

In the present motion, Plaintiff's counsel avers that Defendant Erica Ruiz ("Ruiz") was personally served with a copy of the complaint on February 9, 2016.<sup>2</sup> The return on the summons reflects that Defendant Ruiz was personally served on February 9, 2016.<sup>3</sup> Defendant Ruiz has failed to enter an appearance or file a pleading in this action.

Rule 55(a) allows for an entry of default as follows: "When a party against whom a judgment for affirmative relief is sought has

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<sup>1</sup> This case was referred to the undersigned magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(A) and (B), the Cost and Delay Reduction Plan under the Civil Justice Reform Act, and Federal Rule of Civil Procedure 72. See Doc. 16, Ord. Dated Mar. 8, 2016.

<sup>2</sup> See Doc. 15-1, Aff. in Support of Mot. for Default ¶ 3.

<sup>3</sup> See Doc. 14, Return of Serv. of Summons Executed as to Def. Ruiz p. 2.

failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default." Fed. R. Civ. Pro. 55(a). Therefore, the court **RECOMMENDS** that Plaintiff's Motion for Entry of Default be **GRANTED**.

The Clerk shall send copies of this Memorandum and Recommendation to the respective parties who have fourteen days from the receipt thereof to file written objections thereto pursuant to Federal Rule of Civil Procedure 72(b) and General Order 2002-13. Failure to file written objections within the time period mentioned shall bar an aggrieved party from attacking the factual findings and legal conclusions on appeal.

The original of any written objections shall be filed with the United States District Clerk electronically. Copies of such objections shall be mailed to opposing parties and to the chambers of the undersigned, 515 Rusk, Suite 7019, Houston, Texas 77002.

**SIGNED** in Houston, Texas, this 30<sup>th</sup> day of November, 2016.



A handwritten signature in black ink, appearing to read "J. J. Jr.", is written over a horizontal line. Below the line, the text "U.S. MAGISTRATE JUDGE" is printed in a standard font.